

CALIFORNIA DEPARTMENT OF JUSTICE

TITLE 11. LAW

DIVISION 5. FIREARMS REGULATIONS

**CHAPTER 4. DOCUMENTATION REQUIREMENTS FOR FIREARMS AND
AMMUNITION ELIGIBILITY CHECKS, CHAPTER 8. DROS ENTRY SYSTEM (DES),
and CHAPTER 11. FIREARM PRECURSOR PARTS**

ECONOMIC AND FISCAL IMPACT STATEMENT (STD 399) ATTACHMENT

ECONOMIC IMPACT STATEMENT

A. Estimated Private Sector Cost Impacts

A.3. Number of Businesses Impacted

The Department estimates it will receive approximately 50 applications for firearm precursor part vendor licenses each year, both new and renewal.

Businesses that sell firearm precursor parts are not currently tracked. In the absence of information regarding the number of persons, corporations, or other business enterprises that may pursue licensure to sell firearm precursor parts, the Department has developed its estimate of the number of firearm precursor part vendors by relying on its own expertise and a comparison with another type of businesses required to pursue licensure to sell a related firearm product: ammunition. Assembly Bill (AB) 879 (Ch. 730, Stats. 2019) requires firearm precursor parts to be transferred through a licensed firearm precursor part vendor, in a nearly-identical process to the laws governing ammunition purchases and transfers through a licensed ammunition vendor.

Pursuant to Penal Code section 30385, licensed firearms dealers are automatically deemed licensed ammunition vendors, and are not required to pursue ammunition vendor licensure separately. According to the Department's records, as of January 25, 2022 there were 1,675 licensed firearms dealers and 158 licensed ammunition vendors in California. (These numbers change daily, as new licenses are approved and old licenses expire.) Therefore, of the total 1,833 business enterprises that may lawfully sell ammunition, over 90 percent are licensed firearms dealers and fewer than 9 percent are separately licensed ammunition vendors.

The Department assumes a similar dynamic will occur with firearm precursor part vendor licenses. Pursuant to Penal Code section 30485, licensed firearms dealers and licensed ammunition vendors are both automatically deemed licensed firearm precursor part vendors. If firearm precursor part sales are analogous to ammunition sales, over 90 percent of sales will take place at either a licensed firearms dealer or a licensed ammunition vendor, and fewer than 9 percent of firearm precursor part sales will take place at a separately-licensed firearms precursor part vendor.

However, firearm precursor parts are not directly analogous to ammunition, and the Department anticipates there will be fewer separately licensed firearms precursor part vendors than licensed

ammunition vendors due to the nature of the good being sold. All firearms, by definition, utilize ammunition, making it a complimentary good. In fiscal year 2020-21, there were 1,257,687 total firearms transactions and 1,979,845 ammunition transactions. Ammunition vendors are diffused throughout the state, offering ammunition for sale wherever firearms are used. By contrast, despite their unique threat to health and safety, firearm precursor parts are a relatively unconventional method for a person to come to possess a firearm, and unlike ammunition, firearm precursor parts are not expendable goods. The Department's experience, based on inspections of firearms dealers and attendance at gun shows across the state, have led it to believe that the sale of firearm precursor parts will almost exclusively occur at either licensed firearms dealers or by businesses that sell goods associated with firearms, which are often licensed as ammunition vendors. Rather than the 158 licensed ammunition vendors, the Department estimates that businesses seeking separate firearm precursor part vendor licenses will be approximately one third of that total, or around 50.

The Department estimates that the total number of businesses directly impacted by these regulations will be 1,883 ($50 + 1,665 + 158 = 1,883$).

Although the Department does not have direct information regarding the business size of licensed firearms dealers, ammunition vendors, or firearm precursor part vendors, approximately 280 firearms dealers are one of five corporations: Bass Pro Outdoor World, Big 5 Sporting Goods, Dick's Sporting Goods, Sportsman's Warehouse and Turner's Outdoorsman. The remaining businesses have only one, two, or (rarely) three locations, and, if set up as corporations, have corporate headquarters in California (i.e., are "independently owned" and not "dominant in its field of operation"). Therefore, using the consolidated small business definition in Government Code section 11346.3, subdivision (b)(4)(B) as a guide, the Department estimates approximately 1,381 licensed firearms dealers are "small businesses." The Department estimates all separately-licensed ammunition vendors and firearm precursor part vendors are small businesses pursuant to the "small business" definition. Of the total 1,883 businesses impacted by these regulations, the Department estimates that 1,589, or 84 percent, are small businesses.

A.4. Number of Businesses Created and Eliminated

These regulations are not expected to create new businesses. Businesses that sell firearm precursor parts already exist, whether in the form of a firearm dealer, ammunition vendor, or a previously-unregulated firearm precursor part vendor. The implementation of these regulations do not impose costs that are significant enough to deter the creation of new businesses. Pursuant to Penal Code section 30405, as of July 1, 2022, persons prohibited from owning a firearm will be prohibited from owning a firearm precursor part. This statutory restriction may result in a decline in firearm precursor part sales. The proposed regulations, however, would not restrict firearm precursor part sales. To the contrary, the Department is required, pursuant to Penal Code section 30470, to approve the purchase or transfer of firearm precursor parts through a vendor, except as otherwise specified by that statute. To the extent that sales of firearm precursor part sales decline after July 1, 2022, any decline would be due to the requirements of statute, not these regulations that authorize the sale of firearm precursor parts.

However, considering roughly 0.7 percent of firearm transactions are denied due to customers failing an eligibility check, the Department assumes the same percentage of firearm precursor part transactions will be denied. This may result in a 0.7 percent loss in revenue throughout the firearm precursor part industry. The average firearm precursor part costs approximately \$100

(see 80% Arms 2022; 80% Lowers 2022; Polymer80 2022; Thunder Tactical 2022). Given the Department's estimate there will be between 20,000 and 50,000 firearm precursor parts sold in the 12 months subsequent to the regulation going into effect, a 0.7 percent decline in sales would lead to an economic loss of between \$140,000 and \$350,000. If this loss is experienced equally among all 1,883 firearm precursor part vendors, this would be a yearly loss of between \$74 and \$186 for each business. The Department does not expect this yearly loss in sales would lead to the elimination of any businesses.

A.6. Number of Jobs Created and Eliminated

These regulations are not expected to create new jobs. Businesses that sell firearm precursor parts already exist, whether it be in the form of a firearm dealer, ammunition vendor, or a previously unregulated firearm precursor part vendor. Businesses that sell firearms or ammunition are already staffed and trained to perform these eligibility checks through the Dealer Record of Sale (DROS) Entry System (DES), so the cost of implementing this same practice for firearm precursor parts will be minimal. Businesses that exclusively sell firearm precursor parts are already staffed to perform purchase transactions without an eligibility check process. The eligibility check process required by these regulations will add approximately two minutes to the time it takes to complete a transaction. (This is the amount of time that the Department estimates it takes to process the analogous eligibility check for ammunition purchases and transfers.) For these reasons, the Department does not expect businesses to require additional staffing to adhere to these regulations.

These regulations are not expected to eliminate existing jobs. Businesses that sell firearms, ammunition, or firearm precursor parts are already staffed for the purpose of completing purchase transactions. The staff of firearm dealers and ammunition vendors will simply be redirecting their workload toward the performance of firearm precursor part eligibility checks as needed. Existing firearm precursor part vendors already have the staff they deem necessary to perform purchase transactions. The labor cost of performing the eligibility check through DES is not expected to cause businesses to reduce staffing, as the cost of performing said eligibility checks is low (see **B.1**) and will be offset by the revenue made on each transaction.

A.7. Ability of California Businesses to Compete

Pursuant to Penal Code section 30412, subdivision (b), the sale, delivery, or transfer of ownership of a firearm precursor part may only occur in a face-to-face transaction. A firearm precursor part may only be purchased or acquired over the Internet or through other means of remote ordering if a licensed California firearm precursor part vendor initially receives the firearm precursor part and processes the transaction. Currently, firearm precursor parts may be ordered online and delivered to personal residences from out of state businesses; this will be prohibited as of July 1, 2022, separate from these proposed regulations.

Similarly, Penal code section 30414 prohibits California residents from bringing into the state any firearm precursor part acquired from out of state, unless it is first delivered to a licensed California firearm precursor part vendor. Again, importation of firearm precursor parts from out of state is prohibited by statute and is separate from these regulations.

Due to these statutory prohibitions, California businesses will not be engaged in competition with businesses in other states.

B. Estimated Costs

B.1

The Department has determined any cost impact to businesses would be indirect and due to the additional time it will take to process background checks or to verify whether an individual is exempt from a background check. The Department estimates it will take an additional two minutes to complete the sale or purchase of a firearm precursor part. Assuming the additional staff time for a retail worker costs a minimum of \$14 per hour, the Department estimates that each firearm precursor part transaction will indirectly cost firearm precursor part vendors an additional \$0.47 per transaction in staff time.

The Department estimates there will be between 20,000 and 50,000 firearm precursor part transactions in the first 12 months following implementation of the regulation. Firearm precursor part transactions are not currently tracked. In the absence of information regarding the number of firearm precursor part transactions, the Department has developed its estimate by relying on its own expertise, requests for serial numbers, and the number of sales made in California by one of the largest firearm precursor part vendors.

Pursuant to Penal Code section 29180, an unlicensed person manufacturing or assembling a firearm must apply to the Department of Justice for a unique serial number, which is then engraved or permanently affixed to the newly-manufactured firearm. The serial numbers assigned by the Department can therefor serve as a partial proxy for the number of firearms manufactured from unfinished receivers and frames each year.

Table 1: Firearms Manufactured by Unlicensed Subject (FMBUS) Numbers Issued

Year	Rifle	Pistol	Other	Total
Jul 1-Dec 31, 2018	877	1,052	-	1,929
2019	415	812	-	1,227
2020	677	935	-	1,612
2021	528	710	9	1,247

However, these FMBUS numbers do not represent the only personally-manufactured firearms reported to the Department. Pursuant to Penal Code section 11108.2, law enforcement agencies must make an “Evidence” entry into the Department’s Automated Firearms System within seven days of the seizure of a firearm. When a seized personally-manufactured firearm lacks a serial number, the law enforcement agency requests a serial number from the Department. Over the last several years the number of seized firearms lacking serial numbers has grown exponentially, as depicted in **Table 2**.

Table 2: Serial Numbers Issued for Seized Personally-Manufactured Firearms

Year	Numbers Issued
2016	167
2017	345
2018	707
2019	1,623
2020	4,671
2021	12,338

These numbers only represent firearms seized by law enforcement agencies so this remains an undercount of the number of firearm precursor parts sold in the state each year. Still, it provides a baseline and also shows a trend—that the number of illegal firearms made from firearm precursor parts more than doubles each year.

Another data point was revealed by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) in a search warrant filed December 9, 2020 to search the business known as Polymer80 in Dayton, Nevada. Polymer80 is one of the largest firearm precursor part businesses in the country. The warrant reveals that, in response to a subpoena, the company Stamps.com provided records to the ATF indicating that Polymer80 had shipped approximately 9,400 items to customers in California between January 2019 and October 2020. On average, Polymer80 shipped 427 items each month, or 5,127 each year. Polymer80 mostly offers for sale unfinished handgun frames. According to the Department’s experience, unfinished handgun frames make up approximately half of the market for firearm precursor parts, while the rest are unfinished receivers. Based solely on the shipping numbers from Polymer80, the Department could conservatively estimate that there are approximately 5,000 unfinished handgun frames and 5,000 unfinished receivers sold or imported into California each year, or 10,000 total. Again, this estimate is acknowledged to be an undercount, as the Department is aware of multiple other businesses that ship firearm precursor parts to California, as well as the many retail businesses in California that currently sell firearm precursor parts.

Taking into consideration the roughly 10,000 personally-manufactured firearms reported to the Department, and the roughly 10,000 firearm precursor parts estimated based on the shipping numbers from Polymer80, and acknowledging that those numbers are significant under-counts of the total number of firearm precursor parts in the state, as an initial estimate the Department doubled this number to set the base of a range of possible sales, estimating that at least 20,000 firearm precursor parts are sold in California each year.

The Department acknowledges that even this is likely an undercount, given the rate of growth of unserialized firearm sales each year. As an upper boundary, the Department has determined that a reasonable estimate would be more than double the lower estimate, or approximately 50,000 firearm precursor parts sold in the 12 months following implementation of these regulations. This estimate can be revised after implementation of these regulations leads to the ability to track sales with precision.

The Department anticipates a total of 1,883 total firearm precursor part vendors (50 + 1,675 + 158 = 1,883). If firearm precursor part sales are distributed evenly among all firearm precursor part vendors, the average firearm precursor part vendor will sell between 11 and 27 firearm

precursor parts in the first year subsequent to implementation of these regulations. The additional cost of \$0.47 per transaction (two minutes of staff time at a wage of \$14 per hour) will result in a yearly cost to firearm precursor part vendor businesses of between \$5.17 and \$12.69 each year.

Although it will take additional staff time to complete a firearm precursor part transaction, these costs are minimal and purchasers will be shopping for other products in the store during the background check, allowing the vendor to sell more items to the public.

Individuals are also expected to spend approximately two minutes of their time undergoing the eligibility check process. The consumer's time is valued at the same \$14 per hour rate as the firearm precursor part vendor, which means it will also cost individuals roughly \$0.47 to take the time to complete a firearm precursor part transaction. Individuals will also pay a fee amount of \$1.00 unless it is determined that they are exempt from the eligibility check process. Therefore, the indirect and direct costs for an individual to purchase or transfer a firearm precursor part will be \$1.47 per firearm precursor part. The total cost will be dependent upon the frequency at which consumers decide to purchase or transfer firearm precursor parts.

The total lifetime cost for businesses and individuals is impossible to quantify, as it depends on the number of firearm precursor part sales over the lifetime, which the Department is unable to estimate.

There are no initial costs for businesses or individuals beyond the cost impact of performing and paying the fee for the eligibility checks. Ongoing costs for both vendors and consumers will be dependent upon the frequency at which consumers purchase or transfer firearm precursor parts.

D. Alternatives to the Regulation

D.4

These regulations implement prescriptive requirements because they require firearm precursor part vendors to utilize the DES to transmit purchaser or transferee information to the Department for the purpose of performing eligibility checks. Pursuant to Penal Code section 30470, subdivision (a), the Department is mandated to electronically approve the purchase or transfer of firearm precursor parts through a vendor. The Department has determined that the most effective way to electronically conduct the firearm precursor part authorization program is to require all required information be communicated to the Department through the DES, with the notable exemption provided by Penal Code section 30470, subdivision (d), as implemented by section 4325 of these proposed regulations. Penal Code section 30470, subdivision (d) implies that the majority of firearm precursor part vendors will submit the information electronically.

Pursuant to Penal Code section 30485, subdivision (d), most firearms dealers and ammunition vendors will also be authorized firearm precursor part vendors, and will make up 97 percent of all vendors. The DES website is already the established portal through which firearms dealers and ammunition vendors communicate purchasers' or transferees' personal information to the Department for the purpose of both firearm and ammunition eligibility checks. It would be unduly burdensome for firearm precursor part vendors, and unnecessarily expensive for the Department to develop and require use of a separate method of communicating purchasers' or transferees' personal information to the Department for the specific purpose of firearm precursor part eligibility checks.

These requirements do not impose any additional costs to firearm precursor part vendors or the individual purchasers or transferees of firearm precursor parts.

FISCAL IMPACT STATEMENT

B. Fiscal Effect on State Government

B.1

Depending on the total number of transactions, the cost of supporting the firearm precursor part authorization program is expected to cost \$223,000 in the first 12 months subsequent to implementation of the regulation.

Staff Workload

The workload of performing eligibility checks, record keeping, and quality assurance will be performed by multiple positions. This workload will be absorbed by existing positions within the Department. The Department does require the workload of one Information Technology Specialist II to design, implement, and continuously maintain the electronic and web based systems that will be used by vendors and Department staff. Mid-step salary for this position is \$108,108. With staff benefits and standard compliment, the total cost of personal services is \$170,000. Including an operating expense and equipment cost of \$53,000 results in a total fiscal cost of \$223,000 in the first 12 months subsequent to implementation of the regulation.

B.4.

Proposed sections 4320, 4321, and 4323 would each impose a fee of \$1.00 per transaction to complete an eligibility check. The Department estimates there will be between 20,000 and 50,000 transactions in the first year, resulting in a revenue of between \$20,000 and \$50,000.